



Sen. James F. Clayborne, Jr.

Filed: 3/3/2011

09700SB2169sam001

LRB097 07925 ASK 51852 a

1 AMENDMENT TO SENATE BILL 2169

2 AMENDMENT NO. _____. Amend Senate Bill 2169 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Section 15-401 as follows:

6 (220 ILCS 5/15-401)
7 Sec. 15-401. Licensing.

8 (a) No person shall operate as a common carrier by pipeline
9 unless the person possesses a certificate in good standing
10 authorizing it to operate as a common carrier by pipeline. No
11 person shall begin or continue construction of a pipeline or
12 other facility, other than the repair or replacement of an
13 existing pipeline or facility, for use in operations as a
14 common carrier by pipeline unless the person possesses a
15 certificate in good standing.

16 (b) Requirements for issuance. The Commission, after a

1 hearing, shall grant an application for a certificate
2 authorizing operations as a common carrier by pipeline, in
3 whole or in part, to the extent that it finds that the
4 application was properly filed; a public need for the service
5 exists; the applicant is fit, willing, and able to provide the
6 service in compliance with this Act, Commission regulations,
7 and orders; and the public convenience and necessity requires
8 issuance of the certificate. Evidence encompassing any of the
9 factors described in items (1) through (9) of this subsection
10 (b) that is submitted by the applicant, any other party, or the
11 Commission's staff shall also be considered by the Commission
12 in determining whether a public need for the service exists
13 under either current or expected conditions. The changes in
14 this subsection (b) are intended to be confirmatory of existing
15 law.

16 In its determination of public convenience and necessity
17 for a proposed pipeline or facility designed or intended to
18 transport crude oil and any alternate locations for such
19 proposed pipeline or facility, the Commission shall consider,
20 but not be limited to, the following:

21 (1) any evidence presented by the Illinois
22 Environmental Protection Agency regarding the
23 environmental impact of the proposed pipeline or other
24 facility;

25 (2) any evidence presented by the Illinois Department
26 of Transportation regarding the impact of the proposed

1 pipeline or facility on traffic safety, road construction,
2 or other transportation issues;

3 (3) any evidence presented by the Department of Natural
4 Resources regarding the impact of the proposed pipeline or
5 facility on any conservation areas, forest preserves,
6 wildlife preserves, wetlands, or any other natural
7 resource;

8 (4) any evidence of the effect of the pipeline upon the
9 economy, infrastructure, and public safety presented by
10 local governmental units that will be affected by the
11 proposed pipeline or facility;

12 (5) any evidence of the effect of the pipeline upon
13 property values presented by property owners who will be
14 affected by the proposed pipeline or facility, provided
15 that the Commission need not hear evidence as to the actual
16 valuation of property such as that as would be presented to
17 and determined by the courts under the Eminent Domain Act;

18 (6) any evidence presented by the Department of
19 Commerce and Economic Opportunity regarding the current
20 and future local, State-wide, or regional economic effect,
21 direct or indirect, of the proposed pipeline or facility
22 including, but not limited to, property values, employment
23 rates, and residential and business development; ~~and~~

24 (7) any evidence addressing the factors described in
25 items (1) through (9) of this subsection (b) or other
26 relevant factors that is presented by any other State

1 agency, the applicant, a party, or other entity that
2 participates in the proceeding, including evidence
3 presented by the Commission's staff;

4 (8) any evidence presented by a State agency or unit of
5 State or local government as to the current and future
6 national, State-wide, or regional economic effects of the
7 proposed pipeline, direct or indirect, as they affect
8 residents or businesses in Illinois, including, but not
9 limited to, such impacts as the ability of manufacturers in
10 Illinois to meet public demand for related services and
11 products and to compete in the national and regional
12 economies, improved access of suppliers to regional and
13 national shipping grids, the ability of the State to access
14 funds made available for energy infrastructure by the
15 federal government, mitigation of foreseeable spikes in
16 price affecting Illinois residents or businesses due to
17 sudden changes in supply or transportation capacity, and
18 the likelihood that the proposed construction will
19 substantially encourage related investment in the State's
20 energy infrastructure and the creation of energy related
21 jobs; and

22 (9) any evidence presented by any State or federal
23 governmental entity as to how the proposed pipeline or
24 facility will affect the security, stability, and
25 reliability of energy in the State or in the region.

26 In its written order, the Commission shall address all of

1 the evidence presented, and if the order is contrary to any of
2 the evidence, the Commission shall state the reasons for its
3 determination with regard to that evidence. ~~The provisions of~~
4 ~~this amendatory Act of 1996 apply to any certificate granted or~~
5 ~~denied after the effective date of this amendatory Act of 1996.~~

6 (c) An application filed pursuant to this Section may
7 request either that the Commission review and approve a
8 specific route for a pipeline, or that the Commission review
9 and approve a project route width that identifies the areas in
10 which the pipeline would be located, with such width ranging
11 from the minimum width required for a pipeline right-of-way up
12 to 500 feet in width. The purpose for allowing the option of
13 review and approval of a project route width is to provide
14 increased flexibility during the construction process to
15 accommodate specific landowner requests, avoid environmentally
16 sensitive areas, or address special environmental permitting
17 requirements.

18 (d) A common carrier by pipeline may request any other
19 approvals as may be needed from the Commission for completion
20 of the pipeline under Article VIII or any other Article or
21 Section of this Act at the same time, and as part of the same
22 application, as its request for a certificate of good standing
23 under this Section. The Commission's rules shall ensure that
24 notice of such a consolidated application is provided within 30
25 days after filing to the landowners along a proposed project
26 route, or to the potentially affected landowners within a

1 proposed project route width, using the notification
2 procedures set forth in the Commission's rules. If a
3 consolidated application is submitted, then the requests shall
4 be heard on a consolidated basis and a decision on all issues
5 shall be entered within the time frames stated in subsection
6 (e) of this Section. In such a consolidated proceeding, the
7 Commission may consider evidence relating to the same factors
8 identified in items (1) through (9) of subsection (b) of this
9 Section in granting authority under Section 8-503 of this Act.
10 If the Commission grants approval of a project route width as
11 opposed to a specific project route, then the common carrier by
12 pipeline must, as it finalizes the actual pipeline alignment
13 within the project route width, file its final list of affected
14 landowners with the Commission at least 14 days in advance of
15 beginning construction on any tract within the project route
16 width and also provide the Commission with at least 14 days
17 notice before filing a complaint for eminent domain in the
18 circuit court with regard to any tract within the project route
19 width.

20 (e) The Commission shall make its determination on any
21 application filed pursuant to this Section and issue its final
22 order within one year after the date that the application is
23 filed unless an extension is granted as provided in this
24 subsection (e). The Commission may extend the one-year time
25 period for issuing a final order on an application filed
26 pursuant to this Section up to an additional 6 months if it

1 finds, following the filing of initial testimony by the parties
2 to the proceeding, that due to the number of affected
3 landowners and other parties in the proceeding and the
4 complexity of the contested issues before it, additional time
5 is needed to ensure a complete review of the evidence. If an
6 extension is granted, then the schedule for the proceeding
7 shall not be further extended beyond this 6-month period, and
8 the Commission shall issue its final order within the 6-month
9 extension period. The Commission shall also have the power to
10 establish an expedited schedule for making its determination on
11 an application filed pursuant to this Section in less than one
12 year if it finds that the public interest requires the setting
13 of such an expedited schedule.

14 (f) Within 6 months after the Commission's entry of an
15 order approving either a specific route or a project route
16 width under this Section, the common carrier by pipeline that
17 receives such order may file supplemental applications for
18 minor route deviations outside the approved project route
19 width, allowing for additions or changes to the approved route
20 to address environmental concerns encountered during
21 construction or to accommodate landowner requests. Notice of a
22 supplemental application shall be provided to any State agency
23 that appeared in the original proceeding or immediately
24 affected landowner at the time such supplemental application is
25 filed. The route deviations shall be approved by the Commission
26 within 45 days, unless a written objection is filed to the

1 supplemental application within 20 days after the date such
2 supplemental application is filed. Hearings on any such
3 supplemental application shall be limited to the
4 reasonableness of the specific variance proposed, and the
5 issues of public need or public convenience or necessity for
6 the project or fitness of the applicant shall not be reopened
7 in the supplemental proceeding.

8 (g) The rules of the Commission may include additional
9 options for expediting the issuance of permits and certificates
10 under this Section. Such rules may provide that, in the event
11 that an applicant elects to use an option provided for in such
12 rules; (1) the applicant must request the use of the expedited
13 process at the time of filing its application for a license or
14 permit with the Commission; (2) the Commission may engage
15 experts and procure additional administrative resources that
16 are reasonably necessary for implementing the expedited
17 process; and (3) the applicant must bear any additional costs
18 incurred by the Commission as a result of the applicant's use
19 of such expedited process.

20 (h) ~~(e)~~ Duties and obligations of common carriers by
21 pipeline. Each common carrier by pipeline shall provide
22 adequate service to the public at reasonable rates and without
23 discrimination.

24 (Source: P.A. 94-793, eff. 5-19-06.)

25 Section 99. Effective date. This Act takes effect July 1,

1 2011.".